1. Franciscans International, the Dominicans, the Commission of the Churches on International Affairs of the World Council of Churches and the World Alliance of Reformed Churches wish to bring to the attention of the fifty-fifth session of the Commission on Human Rights the situation of religious minorities in Pakistan. This paper addresses three areas of serious concern:

(i) The separate electorate for religious minorities in Pakistan;

(ii) Blasphemy Laws 295 B and C of the Pakistan Penal Code;

(iii) The Government's bill to adopt the 15th Amendment (Sharia law).

Background

2. Pakistan came into existence in 1947, following the joining together of the Muslim majority provinces of East Bengal, Punjab, Sind, the North-West Frontier and Baluchistan. This brought together a total population of approximately 95 million people, forming the nascent Federation of Pakistan. (In 1971, East Pakistan became the independent State of Bangladesh.) In his address to the first Constituent Assembly of Pakistan, on 11 August 1947, the founder of the country M.A. Jinnah gave the following assurances to the minorities: "You may belong to any religion or caste or creed that has nothing to do with the business of the State ... Even now there are some States in existence where there are discriminations made and bars imposed against a particular class. Thank God we are not starting in those days. We are starting in the days when there is no discrimination between one caste or creed and another. We are starting with this fundamental principle that we are all citizens and equal citizens of one State". It would seem, in the reality of today's Pakistan, that the words of M.A. Jinnah, the Father of the Nation, who led the movement for an independent Pakistan, have lost their significance.

3. The Pakistan of today is a society torn apart by corruption, intolerance and violence, a far cry from the original ideal of a progressive and tolerant country. Religious minorities are increasingly the targets of bigotry, which is often instigated by extremist forces, Islamic political parties and their leadership. The failure of successive Governments to bring under control the religious extremist movement in the country has strengthened their hands. The lack of political will on the part of the Government to put an end to these destructive trends has encouraged these groups to persecute and victimize individuals and groups with impunity. So long as the Government refrains from taking action against the extremist elements for reasons of political expediency, the situation will remain unchanged.

The separate electorates for religious minorities in Pakistan

4. In 1979, the military dictatorship of the late General Zia ul-Haq introduced an amendment to the electoral laws of Pakistan which changed the system of joint electorate, as envisaged under the 1973 Constitution, to a system of separate electorates. The amendment was introduced at the request of the religious-political parties that subscribe to the view that non-Muslims in Pakistan are "Zimmis" or second class citizens. During the past two

decades, successive Governments in Pakistan have followed discriminatory policies that have prevented non-Muslims from holding key positions in the civil service and in the higher judiciary.

5. The system of separate electorates has the effect of denying religious minorities in the country the fundamental right of universal adult franchise. Under this system, a quota of seats is reserved for non-Muslims in the National and Provincial legislatures. This means that non-Muslim voters can only vote for non-Muslim candidates contesting the reserved seats and that they cannot vote for Muslim candidates in the general elections. This policy of discrimination among voters on grounds of religion has cut off the non-Muslim citizens of Pakistan from the mainstream of national political life. Further, it has denied them the right to participate directly in the national decision making processes as well as in the framing of national economic, social and cultural policies. Similar segregation has been introduced at the local levels. We strongly disagree with the rationale that this provision of Pakistani law protects the rights of religious minorities. We see it rather as the institutionalization of discrimination, a form of religious apartheid that officially restricts the rights of Pakistani citizens to participate fully in their society.

6. The system of separate electorates enforced in Pakistan is in clear violation of articles 2 and 21 of the Universal Declaration of Human Rights, as well as articles 25 and 26 of the International Covenant on Civil and Political Rights.

The Blasphemy Laws 295 B and 295 C of the Pakistan Penal Code

7. The Blasphemy Laws in their present form have become a source of victimization and persecution of minorities in the country. Minorities suffer all manner of humiliation through false accusations made under these laws. In the present climate of hate, intolerance and violence in Pakistan, the Blasphemy Laws have become a major tool in the hands of extremist elements to settle personal scores against members of religious minorities, particularly Christians. The Laws themselves provide only a vague definition of blasphemy, yet blasphemy carries a mandatory death sentence in some cases. There are also serious problems with the mechanisms to implement the Laws. Since the mandatory death sentence was introduced as a result of Amendment Act No. III (1986) to Section 295-C, many innocent people have lost their lives, including some accused persons who had not been brought to trial. For example, Niamat Ahmer, Tahir Iqbal and Manzoor Masih were killed even before the courts could hear the cases registered against them. Many victims of the Blasphemy Laws have had to seek safety and sanctuary in countries abroad and others are forced to live in hiding within the country.

8. In the present context, lawyers who appear in court on behalf of accused persons in blasphemy cases are the targets of intimidation and threats. The retired Judge of the Lahore High Court, Arif Iqbal Bhatti, who set aside the death sentence passed by the Session Courts in the case of Salamat Masih, and Rehmat Masih was shot and killed by an Islamic extremist. His killer, like that of Manzoor Masih, has not been brought to justice. In view of continuing

threats and intimidation, it has become increasingly difficult to engage the services of lawyers to defend cases registered under the Blasphemy Laws. In May 1998, Roman Catholic Bishop John Joseph of the Diocese of Faisalabad took his life to protest against the Blasphemy Laws.

9. In the climate of intolerance which prevails and in view of threats and intimidation and the pressures brought on the judiciary, it has become nearly impossible to obtain a fair hearing in Pakistan for those charged under the Blasphemy Laws. In these circumstances, the lower judiciary has often been constrained to accuse and convict persons without proper study of the evidence placed before it. In one case, the Sessions Judge convicted Gul Masih, who was charged under the Blasphemy Laws, and imposed the death sentence on him on the grounds "that the complainant had an outlook of a good Muslim, that he was a college student and that he had a beard". A number of cases are pending under the Blasphemy Laws, including cases against Ayub Masih, Nelson Munawar Rahi, and Catherine Shaheen. In addition, two Islamic religious organizations have announced a prize of PRs. 1.3 million for the killing of Salamat Masih, and Rehmat Masih who are at present living in exile.

10. The Pakistan representatives to the Commission on Human Rights stated that the Government was extremely conscious of the dangers of the Blasphemy Laws and has instituted measures and appropriate safeguards against their misuse. However, recent cases of blasphemy at Gojra, Alipur Chatta (Gujranwala district) and at Toba Tek Singh prove that the procedure for the registration of such cases has not been changed nor have any measures been introduced to eliminate the injustice of the laws. This raises the question of the Government's commitment to real change. The reality is that the police continue to harass accused persons and their families.

The Government's bill to adopt the 15th Amendment (Sharia Law)

11. On 28 August 1998, the Government of Prime Minister Nawaz Sharif introduced a bill calling for an amendment to the Constitution of Pakistan (15th Amendment or the Sharia Bill), according to which the Holy Koran and Sunnah of the Holy Prophet (peace be upon him) shall be the supreme law of the land. The Prime Minister has subsequently been quoted as advocating the adoption of Taleban-style justice as a model of swift punishment and effective deterrence to end violence, crime and corruption in Pakistan.

12. While we acknowledge the Government's declared intention to control corruption through the introduction of the Sharia bill, we remain seriously concerned that in the present climate of intolerance and religious extremism in Pakistan, the passage of the bill will add further to the sense of insecurity of the minorities and will give rise to further sectarian strife within society, leading to more conflict and violence. We therefore ask the Government to withdraw its bill on the 15th Amendment.

13. Further, we, Franciscans International and the Dominicans, the Commission on the Churches and International Affairs and the World Alliance of Reformed Churches, join with the Conference of Catholic Bishops, the National Justice and Peace Commission, the Human Rights Commission of Pakistan and the

inter-religious group, the National Christian-Muslim Coordination Commission, to ask the Commission on Human Rights to urge the Government of Pakistan to protect and promote more strongly the legitimate rights of the religious minorities of Pakistan. Specifically the Commission should urge:

(i) The Government of Pakistan to abolish the system of separate electorates, which is discriminatory in nature and promotes divisions in society on the basis of religion;

(ii) The Government of Pakistan to repeal the Blasphemy Laws, especially 295 B and 295 C of the Pakistan Penal Code;

(iii) The Government of Pakistan to take practical and concrete measures to instil values of religious tolerance in society by removing prejudicial parts of the education syllabi;

(iv) The Government of Pakistan to discontinue on government controlled media any religiously biased programmes that incite to hatred and intolerance;

(v) The Special Rapporteurs on religious intolerance and on the independence of judges and lawyers to undertake visits to Pakistan at the earliest possible opportunity and submit reports to the Commission;

(vi) The Government, for peace and harmony in Pakistan, to withdraw its bill to approve Amendment 15 to implement the Sharia Law as the law of the land.

Annex

Pakistan Penal Code

The relevant provisions of the Pakistan Penal Code are the following:

1. Offences related to religion (original text)

Section 295.

Injuring or defiling place of worship, with intent to insult the religion of any class: Whoever, destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 295-A.

Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs: Whoever with deliberate and malicious intention of outraging the religious feelings of any class of the citizens of Pakistan by words, either spoken or written or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to 10 years, or with fine, or with both.

2. Blasphemy Laws

Section 295-B.

Defiling, etc., of copy of Holy Koran: Whoever wilfully defiles, damages or desecrates a copy of the Holy Koran or an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.

Section 295-C.

Use of derogatory remarks etc., in respect of the Holy Prophet:

Whoever by words, either spoken or written or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Mohammed (peace be upon him) shall be punished with death.

Section 298.

Uttering words, etc., with deliberate intent of wounding religious feelings:

Whoever, with the deliberate intention of wounding the religious feelings of any person utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Section 298-A.

Use of derogatory remarks, etc., in respect of holy personages:

Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo or insinuation, directly or indirectly, defiles the sacred name of any wife (Ummul Mumineen), or members of the family (Ahle-bait), of the Holy Prophet (peace be upon him), or any of the righteous Caliphs (Khulafa-e-Raashideen) or companions (Sahaaba) of the Holy Prophet (peace be upon him) shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Section 298-B.

Misuse of epithets, description and titles, etc., reserved for certain holy personages or places:

1. Any person of the Qadiani group or the Lahori group (who call themselves "Ahmadis" or by any other name) who by words, either spoken or written, or by visible representation: (a) refers to, or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (peace be upon him), as "Ameer-ul-Mumineen", "Khalifat-ul-Mumineen", "Khalifat-ul-Muslimeen", "Sahaabi" or "Razi Allah Anho"; (b) Refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (peace be upon him), as Ummul-Mumineen; (c) refers to, or addresses, any person, other than a member of the family (Ahle-bait) of the Holy Prophet Muhammad (peace be upon him), as Ahle-bait; or (d) refers to, or names, or calls, his place of worship as Masjid (mosque); shall be punished with imprisonment of either description for a term which may extend to three years, and shall be also liable to fine.

2. Any person of the Qadiani group or Lahori group (who call themselves "Ahmadis" or by any other name) who by words, either spoken or written, or by visible representation, refers to the mode or form of call to prayers followed by his faith as "Azan" or recites Azan as used by the Muslims, shall be punished with imprisonment or either description for a term which may extend to three years and shall also be liable to fine.

Section 298-C.

Persons of Qadiani group, etc., calling himself a Muslim or preaching or propagating his faith:

Any person of the Qadiani group or the Lahori group (who call themselves "Ahmadis" or by any other name), who, directly or indirectly, pose himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.